

DO NOT SUBMIT THIS PAGE FOR FILING

INSTRUCTIONS

Motion to Set Aside Judgment (Civil Cases)

This motion must be brought pursuant to Rule 60(b)(pick from below for the section number and fill in appropriate blank on Motion) of the Utah Rules of Civil Procedure.

Example:

“This motion is brought pursuant to Rule 60(b)(1) of Utah Rules of Civil Procedure”

Rule 60. Relief from judgment or order.

(a) Clerical mistakes. Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. During the pendency of an appeal, such mistakes may be so corrected before the appeal is docketed in the appellate court, and thereafter while the appeal is pending may be so corrected with leave of the appellate court.

(b) Mistakes; inadvertence; excusable neglect; newly discovered evidence; fraud, etc. On motion and upon such terms as are just, the court may in the furtherance of justice relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons: **(1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or (6) any other reason justifying relief from the operation of the judgment.** The motion shall be made within a reasonable time and for reasons (1), (2), or (3), not more than 3 months after the judgment, order, or proceeding was entered or taken. A motion under this Subdivision (b) does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order or proceeding or to set aside a judgment for fraud upon the court. The procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.

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1. Fill out the forms. (See above for instructions on filling out the Motion.)
 2. Fill out the Certificate of Mailing on the Motion, and mail a copy of Motion and Affidavit to the opposing party (or opposing party's attorney).
 3. File the original Motion and Affidavit with the court.
 4. Wait ten business days (plus three calendar days for mailing) for the opposing party to respond. (See URCP Rule 6.)
 5. If the opposing party does not respond, mail a copy of the Request to Submit and proposed Order to the opposing party (and fill out the Certificate of Mailing on the Request to Submit) and file the originals with the court. The court will then consider the motion.
 6. If the opposing party does respond, you have the option of replying to that response before completing step 5.

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Name: _____

Address: _____

Phone: _____

IN THE THIRD JUDICIAL DISTRICT COURT, _____ DEPARTMENT

_____ COUNTY, STATE OF UTAH

_____ , Plaintiff(s)	MOTION TO SET ASIDE JUDGMENT & REQUEST FOR HEARING
vs.	
_____ , Defendant(s).	Case # _____
	Judge _____

MOTION TO SET ASIDE

Defendant _____ hereby moves the court to set aside the judgment
(your name)
entered against him/her on _____. (date)

1. This motion is brought pursuant to Rule 60(b)() of the Utah Rules of Civil Procedure.
(See attached copy of rule—enter at least one number in the blank “()” above)

2. This motion is supported by the attached Defendant’s Affidavit in Support of Motion.

REQUEST FOR HEARING

Defendant _____ hereby requests that a hearing be scheduled on this
(your name)
Motion to Set Aside Judgment.

Dated this _____ day of _____, 20 ____.

Defendant's signature

CERTIFICATE OF MAILING

I hereby certify that I mailed, postage prepaid, a true and correct copy of the foregoing Motion to Set Aside & Request for Hearing, and the attached Defendant's Affidavit in Support of Motion to the opposing party (or the opposing party's attorney), at the following address:

_____ (name)

_____ (address)

Dated this _____ day of _____, 20 ____.

Signature

Name: _____

Address: _____

Phone: _____

IN THE THIRD JUDICIAL DISTRICT COURT, _____ DEPARTMENT

_____ COUNTY, STATE OF UTAH

_____, Plaintiff(s) vs. _____, Defendant(s).	DEFENDANT'S AFFIDAVIT IN SUPPORT OF MOTION Case # _____ Judge _____
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State of _____ }
County of _____ } §

I, _____, having been sworn and being under oath,
(your name)
hereby allege as follows:

1. I am the defendant in this lawsuit.
2. A default judgment was entered against me on _____. (date)
3. I did not answer the summons and complaint in this lawsuit because:

[illegible]

Affiant's Signature

NOTARY PUBLIC OR DEPUTY CLERK

Name: _____

Address: _____

Phone: _____

IN THE THIRD JUDICIAL DISTRICT COURT, _____ DEPARTMENT

_____ COUNTY, STATE OF UTAH

<p>_____, Plaintiff(s)</p> <p>vs.</p> <p>_____, Defendant(s).</p>	<p>REQUEST TO SUBMIT FOR DECISION</p> <p>Case # _____</p> <p>Judge _____</p>
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The following motion is now at issue and ready for decision by the court.

The documents indicated have been filed with the court.

1. a. Type of motion: Motion to Set Aside Judgment

b. Date filed: _____

c. Party filing motion : _____

d. _____ Affidavit in support

e. _____ Memorandum in opposition

f. _____ Affidavit in opposition

g. _____ Memorandum in reply to opposition

h. _____ Other pleading(s) necessary to determine motion (specify):

i. _____ Hearing Requested

Dated this _____ day of _____, 20_____.

Signature

Certificate of Mailing

I hereby certify that I mailed, postage prepaid, a true and correct copy of the foregoing Request to Submit for Decision and the attached *proposed* Order Setting Aside Judgment to the opposing party (or the opposing party's attorney), at the following address:

_____ (name)

_____ (address)

Dated this _____ day of _____, 20_____.

Signature

Name: _____

Address: _____

Phone: _____

IN THE THIRD JUDICIAL DISTRICT COURT, _____ DEPARTMENT

_____ COUNTY, STATE OF UTAH

_____ , Plaintiff(s)	ORDER SETTING ASIDE JUDGMENT
vs.	
_____ , Defendant(s).	Case # _____
	Judge _____

Defendant's Motion to Set Aside Judgment is GRANTED. It is hereby ORDERED,
ADJUDGED, AND DECREED that the Judgment entered against defendant on

_____ may be, and hereby is, SET ASIDE.
date

Dated this _____ day of _____, 20 ____.

District Court Judge